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2-22-01
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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,

Plaintiff

v.

ROBERT W. MEYERS,
ROBERT S. BITNER,
DAVID J. WAKEFIELD,
TERRY L. WHITMAN,
JACK ALLAR,
LARRY LIDGETT,
LT. DECKER,
MAJOR YANCY and
JEFFREY A. RACKOVAN,
Defendants

CIVIL NO. 1:CV-00-0895

(Magistrate Judge Smyser)

FILED
HARRISBURG, PA

FEB 21 2001

MARY E. D'ANDREA, CLERK
Per Deputy Clerk

ORDER

The plaintiff, a prisoner proceeding *pro se*, commenced this 42 U.S.C. § 1983 action by filing a complaint on May 18, 2000. On July 6, 2000, the plaintiff filed a supplemental complaint. The plaintiff claims that the defendants required him to share a cell with inmates who smoke and that the smoke aggravates his asthma.

The parties consented to proceed before a magistrate judge, and on July 14, 2000, this case was reassigned to the undersigned magistrate judge.

On July 31, 2000, the defendants filed an answer to the complaint and supplemental complaint.

On November 14, 2000, the plaintiff filed a motion to compel discovery and a brief in support of that motion. On November 27, 2000, the defendants filed a brief in opposition to the motion to compel. By an Order dated December 18, 2000, the plaintiff's motion to compel was granted in part and denied in part. The plaintiff's motion was granted with respect to his Requests for the Production of Documents lettered A, B and C, and the defendants were ordered to provide the documents responsive to those requests within ten days. The plaintiff's motion to compel was denied with respect to his Request for the Production of Documents lettered D.

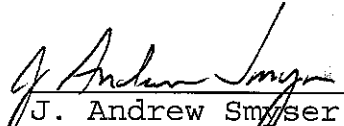
On January 17, 2001, the plaintiff filed a motion for sanctions. On January 25, 2001, the defendants filed a brief

in opposition to the motion for sanctions, and on February 14, 2001, the plaintiff filed a reply brief.

The plaintiff contends that he is entitled to sanctions because the defendants did not, within ten days, provide the documents that the court ordered on December 18, 2000 to be provided to the plaintiff. The defendants asserts that their production of the documents to the plaintiff was delayed due to the plaintiff's temporary transfer to another institution. Although the defendants do not explain why they could not have mailed copies of the documents to the plaintiff at the institution to which he was transferred¹, it is clear that the documents were produced to the plaintiff on or shortly after January 17, 2001. Since the documents were provided and there was only a short delay, there is no basis in this case to impose sanctions on the defendants. Accordingly, the plaintiff's motion for sanctions will be denied.

¹We recognize that the defendants were only required to provide the documents for the plaintiff's inspection and were not required to photocopy the documents for the plaintiff. Nevertheless, the plaintiff asserts that he was ultimately provided with photocopies of the documents.

AND NOW, this 21st day of February, 2001, **IT IS HEREBY ORDERED** that the plaintiff's motion (doc. 26) for sanctions is **DENIED.**


J. Andrew Smyser
Magistrate Judge

DATED: February 21, 2001.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

February 21, 2001

Re: 1:00-cv-00895 Montague v. Meyers

True and correct copies of the attached were mailed by the clerk to the following:

Terrance Montague
SCI-R
SCI at Rockview
BZ-2761
P.O. Box A
Bellefonte, PA 16823

Gregory R. Neuhauser, Esq.
Office of Attorney General
Strawberry Square
15th Floor
Harrisburg, Pa 17120

cc:

Judge	()	() Pro Se Law Clerk
Magistrate Judge	(/)	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by:
		U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail
		to: US Atty Gen () PA Atty Gen ()
		DA of County () Respondents ()
Bankruptcy Court	()	
Other	()	

MARY E. D'ANDREA, Clerk

DATE:

2/21/01

BY:

[Signature]

Deputy Clerk